

No. 14/13/87-6Lab./643.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s Premium Moulding & Processing, Pvt. Ltd., Gurgaon *versus* Arjun Singh.—

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 485 of 1992

*between*

SHRI ARJUN SINGH, C/O SHRI MAHAVIR TYAGI, DISTT. PRESIDENT, INTUC,  
DELHI ROAD, GURGAON

*and*

THE MANAGEMENT OF M/S PREMIUM MOULDING AND PROCESSING PVT.  
LTD, PHASE-1, UDYOG VIHAR, GURGAON

*Present*

workman in person.

Shri Pradeep Yadav, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of 10 of the Industrial Dispute Act, 1947, the Governor of Haryana, referred the service matter, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government Labour Department Endorsement No. 46129-134, dated 27th September, 1992.

2. Parties have settled the dispute. Their statements have been recorded separately. In view of the statements made by the parties, reference stands disposed of as fully settled.

ANITA CHAUDHARY,

The 19th August, 1994.

Presiding Officer,

Industrial Tribunal-Cum-Labour Court,  
Gurgaon.

Endorsement No. 1287, dated the 30th August, 1994.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,

Industrial Tribunal-Cum-Labour Court,  
Gurgaon.

The 17th October, 1994.

No. 14/13/87-6 Lab./647.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad, in respect of the dispute between the workman and the management of M/s. Indian Hardware Industries Ltd., Faridabad, *versus* Bam Dev : —

IN THE COURT OF SHRI N.L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 205 of 86

IN THE MATTER OF INDUSTRIAL DISPUTES

*between*

SHRI BAM DEV, C/O GENERAL SECRETARY, INTUC, DISTRICT COUNCIL, 1-A/119, N.I.T.,  
FARIDABAD

*... Workman*

*and*

M/S. INDIAN HARDWARE INDUSTRIES LTD., HARDWARD CHOWK, N.I.T., FARIDABAD

*... Management*

*Present :*

Shri S. K. Bakshi, A.R. for workman.

Shri R. C. Sharma, A.R. for Management.

## AWARD

Under the provisions of section 10(1) (c) of Industrial Disputes Act 1947, the Government of Haryana have,—*vide* Endst. No. OV/FD/46—56/23851—56, dated 10th July, 1986 referred the following dispute between the parties above mentioned for adjudication:—

“Whether retrenchment of Shri Ram Dev is legal and justified. If not, to what relief he is entitled?”

2. The case of workman is that he was a permanent Security Watchman of the Management having been employed on 4th October, 1979 and his last drawn monthly wages were Rs. 460 p.m. He contends that he had gone to his village after getting his leave sanctioned from 20th February, 1986 to 6th March, 1986. He had come back from his village before time and submitted an application to the Management on 28th February, 1986 to cancel his balance leave and allow him to join duty. The Management had neither taken his application nor had allowed him to join duty and, therefore, he had sent the application to the Management by Regd. A.D. post which was duly received and acknowledged by the Management, the workman approached the management quite a number of times for duty but to no effect. He had also not been paid any compensation for his long service. The workman also alleged that when on 10th May, 1983, he was on duty at the gate he had tried to stop a loaded truck which was going out of the gate without gate pass on account of which the Management got annoyed with him and terminated his services with a view to victimise him. It is on these facts of alleged illegal termination that the workman has claimed his reinstatement with continuity of service and full back wages.

3. The case of the Management is that the workman was served with one month notice by way of retrenchment on 17th February, 1986 which was duly received by him. At that time the workman was employed as a workman at the Registered Office of the company. As per rules, the workman was required to report at the factory and collect his dues including retrenchment compensation but he did not turn up. The Management had thereafter sent an amount of Rs. 1972.35 by the money-orders and letter, dated 17th March, 1986 to the workman at his known address. The workman had received the Money Orders on 19th February, 1986. So, according to the Management, it is a case of retrenchment and it had rightly and properly retrenched the workmen and the letter is not entitled to any relief. It has been denied that the Management has suppressed any material facts.

4. In the rejoinder, pleas taken in the claim statement have been reiterated while those in the written statement controverted.

5. On the pleadings of the parties following issue was framed on 28th November, 1986:—

(1) As per reference.

6. I have perused facts on record and also heard arguments. My findings on the issue framed with reasons therefor are as under:—

**Issue No. 1:**

7. Rajinder Kumar Sharma examined as MW-1 stated that the claimant who was working as a Watchman at the Registered Office was served retrenchment notice Ex. M-2 on 17th February, 1986. In accordance therewith his services were to be terminated w.e.f. 18th February, 1986 i.e. after expiry of one month notice. After the receipt of retrenchment notice on 17th February, 1986, the workman had applied for leave from 20th February, 1986 to 6th March, 1986 Ex. M-3. The leave application was forwarded to Faridabad for further action. No orders were passed thereon and despite that the workman had proceeded on leave of his own accord after giving application Ex. M-4. The witness also stated that when the workman had failed to collect his dues, the Management had remitted an amount of Rs. 1972.35,—*vide* two Money Orders bearing Nos. 4565, for Rs. 1000 and 4566 for Rs. 973.35 (Ex. M-10 & M-11) along with letter dated 17th February, 1986 (Ex. M-5) giving details of the above said amount of Rs. 1972.35. Both the Money Orders were received by the workman on 19th February, 1986 as per receipts Ex. M-11 and Ex. M-12. Letter dated 17th February, 1986 sent by Regd. post was also received by the workman,—*vide* Ex. M-6. In the context of these documents, it was argued on behalf of the Management that all the formalities were completed by the Management in so far as provisions contained on section 25-F of Act with regards to retrenchment are concerned. The allegation of the workman that the amount of compensation was sent to him late has no basis because the letter giving details of amount being remitted was sent to him on 17th February, 1986 alongwith two Money Orders.

8. In his examination as WW-1, the workman reiterated all the facts as have been alleged by him, but could not refute the stand of the Management about the service of retrenchment notice and also about the receipt of an amount of Rs. 1972.35 by means of two money orders. The workman also admitted receipt of letter Ex.M-5 which, according to him was handed over by him to his AR Sh. C.L. Oberai. Relevant documents placed on record by the workman are E.W-2

charge sheet, Ex.W-3 reply to charge sheet, Ex. W-4 application dated 28th February, 1986 for cancellation of his balance leave from 28th February, 1986 to 6th March, 1986, Ex. W-9 his reply to Management letter of 17th February, 1986. In this document, the workman had sought his reinstatement. All these documents do not offset the stand of the Management because of the admissions made by the workman as have been discussed in para 7 above.

9. In the context of what has been discussed above, it is held that the retrenchment of the workman was legal and justified and as such he is not entitled to any relief. An award is passed accordingly.

N. L. PRUTHI,

The 15th September, 1994.

Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court-I, Faridabad.

Endst. No. 3523 dated 16th September, 1994.

A copy, with three spare copies, is forwarded to the Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

N. L PRUTHI,

Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court-I, Faridabad.

The 11th October, 1994

No. 14/13/87-6 Lab./651.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Administrative Faridabad Complex, Administration, Ballabgarh versus Krishan Kumar.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II, FARIDABAD

Ref. No. 306 of 1991

between

THE MANAGEMENT OF M/S. ADMINISTRATIVE FARIDABAD COMPLEX,  
ADMINISTRATION, BALLABGARH (FARIDABAD)

versus

THE WORKMAN NAMELY SHRI KRISHAN KUMAR S/O SHRI HIRA LAL C/O  
SHRI D. P. GAUTAM, SHOP NO. 12, MARKET NO. 5, FARIDABAD.

Present:—

Shri Ashok Sharma, Authorised Representative for the workman.

Shri B. S. Yadav, for the respondent.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub section (i) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government Endst. No. 27799—804, dated 25th July, 1991:—

Whether the services of Shri Krishan Kumar were terminated or he had abandoned the job himself having remained absent? The relief, to which is he entitled as result thereof?

2. Briefly stated the case of the workman is that he was appointed by the respondent as Beldar in the Year 1982. His work and conduct had been satisfactory. No charge-sheet or warning was ever issued to him. His services were terminated in June, 1986 without any reason and without giving any notice or pay in lieu of notice and retrenchment compensation. The persons junior to him were also retained in service. The termination of his services is illegal being violative of provisions of Section 25-F and 25-N of the Act. Consequently, he is entitled to be reinstated into service with continuity in service and full back wages.

3. The respondent submitted written statement stating therein that the workman was employed as a daily wages/*adhoc* employee. He was never appointed on regular basis. He was also not confirmed. He had been absent from duty with effect from June, 1986 and so his name was removed in June, 1986. He had received all his dues in full and final settlement. Even otherwise, his name was liable to be removed from the muster rolls due to his absence from duty for a period of more than 10 days as per provision in the Model Standing Orders. It is not a case of retrenchment. Consequently, he is not entitled to any relief.

4. The workman submitted rejoinder dated 9th December, 1992 re-asserting<sup>v</sup> the previous averments and denying the averments of the respondent.

5. On the pleadings of the parties, the following issued was framed :—

Whether the services of Krishan Kumar were terminated or he had abandoned the job himself having remaining absent ? The relief, to which is he entitled as result thereof ? (As per terms of reference).

6. Both the sides have led evidence.

7. I have heard the authorised representatives of both the sides and have also gone through the evidence on record. My findings on the aforesaid issues are as under :—

8. MW-1 Vijay Kumar deposed that the workman was employed in the year, 1985 on the post of Beldar. He had worked upto May 1987. His services were terminated on account of non-availability of work and grant of sanction by the higher authority. In the end, he stated that no new appointment of Beldar was made after the termination of services of the workman. He did not state that the workman had absented himself with effect from June 1986 as stated in the written statement.

9. On the other hand, the workman deposed facts as mentioned in his claim statement. 77

10. Shri B. S. Yadav, Authorised representative for the respondent urged that it stands established from the statement of the witness that the workman was appointed on daily wages. He was not appointed on regular basis. The contract of service with him used to be renewed daily on the availability works. His case falls under the provision of sub-section 2 (oo) (bb) of the Act. The provision of section 25-F is not applicable. Consequently, the workman is not entitled to any relief.

11. In reply, it has been submitted on behalf of the workman that it is admitted by MW-1 Vijay Kumar that the workman had rendered service for a continuous period of more than 240 days proceeding the date of termination of his services. MW-1 Vijay Kumar also admitted in his cross-examination that the workman was not paid retrenchment compensation. The termination of services of the workman is thus, violative of the provision of Section 25-F of the Act. Consequently, the workman is entitled to be reinstated into service with continuity in service and full back wages.

12. It was held in the case of Surender Nath Sukla and others *versus* Vice Chancellor, Allahabad University and others 1986 UPL BEC 667 referred to in the case Govind Singh *versus* P. O. U. P. Agra and others 1993 LLR 142 that the services of a daily wager who has completed 240 days work within a period of 12 months immediately proceeding the date of termination can not be terminated without paying to him the retrenchment compensation and following the procedure provided under law. A division bench of our own Hon'ble High Court held in the case of the Management of Haryana Urban Development Authority *versus* Neelam Kumar and others 1993(2) PLR 552 that the workman completed 240 days in a calendar year will be treated as regular. The authorised representative of the respondent has not referred to any decision to support his contention that in the case of daily wages worker the contract of service is taken to be renewed every day. The decisions cited in the written statement were also not proved despite repeated requests. In the instant case the workman had rendered service for a continuous period of more than 3 years before termination of his services. His services could not be terminated without payment of retrenchment compensation as per provision of Section 25-F of the Act. Consequently, the impugned action of the respondent terminating the services of the workman is illegal and unjustified. The workman is entitled to be reinstated with continuity in service. The workman is however, not entitled to full back wages as he served demand notice after the

expiry of long period of 5 years without any reason. He has been working as labourer since the termination of his services as per his own version. He is entitled to 50% of the back wages from the date of receipt of reference i. e. 25th July, 1991. The award is passed accordingly.

Dated:  
16th September, 1994.

U. B. KHANDUJA,  
Presiding Officer,  
Labour Court-II,  
Faridabad.

Endst. No. 2928, dated the 16th September, 1994.

A copy with three spare copies is forwarded to the Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,  
Presiding Officer,  
Labour Court-II,  
Faridabad.

No. 14/13/87-6Lab./664.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s E-in-Chief, P.W.D. (Public Health), Haryana, Chandigarh versus Vijay Kumar Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER,  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 120 of 1991  
between

SHRI VIJAY KUMAR SINGH, S/O SHRI DEV NARAIN SINGH, HOUSE NO.  
14/17, NEAR MARKET EAST PATEL NAGAR, NEW DELHI .. Workman  
and

THE MANAGEMENT OF M/S. (1) ENGINEER-IN-CHIEF, P.W.D., PUBLIC HEALTH  
DEPARTMENT, HARYANA, CHANDIGARH. (2) EXECUTIVE ENGINEER,  
P.W.D., PUBLIC HEALTH DEPARTMENT, BAHADURGARH (ROHTAK)

Present:

None, for the parties.

#### AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties named above to this Court for adjudication.—*vide* Labour Department Endorsement No. SOV/Roh/81-91/33864—70, dated the 11th September, 1991:—

Whether the termination of services of Shri Vijay Kumar, is justified and in order? If not, to what relief he is entitled?

2. The case was called several times, but no one is present on behalf of the parties. Hence the reference is dismissed in default. The parties are bear to left their own costs.

Dated 7th September, 1994

P. L. KHANDUJA,

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak.

Endst. No. 2318, dated 15th September, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh,

P. L. KHANDUJA,

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak.